

THE NEW LAW

The new law, in its entirety, is located at the end of this document. Click the links below to review the new law.

ARTICLE 9. SUSPENDED DRIVER LICENSE ENFORCEMENT

[28-3511.](#) Removal and immobilization or impoundment of vehicle

[28-3512.](#) Release of vehicle; definition

[28-3513.](#) Administrative charges

[28-3514.](#) Hearings; notice of immobilization or storage

[28-3515.](#) Unclaimed vehicles

Revised towing law:

[28-872.](#) Removal of vehicles; notice; liability for costs; hearing

THE NEW LAW

ARTICLE 9. SUSPENDED DRIVER LICENSE ENFORCEMENT

[\(back to top\)](#)

28-3511. Removal and immobilization or impoundment of vehicle

- A. A peace officer shall cause the removal and either immobilization or impoundment of a vehicle if the peace officer determines that a person is driving the vehicle while any of the following applies:
 - 1. The person's driving privilege is revoked for any reason.
 - 2. The person's driving privilege is suspended because of a driving under the influence conviction.
 - 3. The person's driving privilege is suspended pursuant to the department's action based on a previous conviction for a violation of section 28-3473.
 - 4. The person's driving privilege is suspended pursuant to section 28-3306, subsection A, paragraph 3.
 - 5. According to department records the person has not ever been issued a driver license or permit and the person does not produce evidence of a driver license issued by another jurisdiction.
- B. A peace officer shall cause the removal and impoundment of a vehicle if the peace officer determines that a person is driving the vehicle and if all of the following apply:
 - 1. The person's driving privilege is canceled, suspended or revoked or according to department records the person has not ever been issued a driver license or permit and the person does not produce evidence of a driver license issued by another jurisdiction.
 - 2. The person is not in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.
 - 3. The person is driving a vehicle that is involved in an accident that results in either property damage or injury to or death of another person.
- C. Except as provided in subsection D of this section, while a peace officer has control of the vehicle the peace officer shall cause the removal and either immobilization or impoundment of the vehicle if the peace officer has probable cause to arrest the driver of the vehicle for a violation of section 4-244, paragraph 33 or section 28-1382 or 28-1383.
- D. A peace officer shall not cause the removal and either the immobilization or impoundment of a vehicle pursuant to subsection C of this section if either:
 - 1. All of the following apply:
 - (a) The peace officer determines that the vehicle is currently registered and that the driver or the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.
 - (b) The spouse of the driver is with the driver at the time of the arrest.
 - (c) The peace officer has reasonable grounds to believe that the spouse of the driver:
 - (i) Has a valid driver license.

- (ii) Is not impaired by intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances.
 - (iii) Does not have any spirituous liquor in the spouse's body if the spouse is under twenty-one years of age.
 - (d) The spouse notifies the peace officer that the spouse will drive the vehicle from the place of arrest to the driver's home or other place of safety.
 - (e) The spouse drives the vehicle as prescribed by subdivision (d) of this paragraph.
- 2. The vehicle is owned by the driver's parent or guardian and the peace officer has probable cause to arrest the driver of the vehicle for a violation of section 4-244, paragraph 33 but not for a violation of section 28-1382 or 28-1383.
- E. Except as otherwise provided in this article, a vehicle that is removed and either immobilized or impounded pursuant to subsection A or B or C of this section shall be immobilized or impounded for thirty days. An insurance company does not have a duty to pay any benefits for charges or fees for immobilization or impoundment.
- F. The owner of a vehicle that is removed and either immobilized or impounded pursuant to subsection A or B or C of this section, the spouse of the owner and each person identified on the department's record with an interest in the vehicle shall be provided with an opportunity for an immobilization or poststorage hearing pursuant to section 28-3514.

[\(back to top\)](#)

28-3512. Release of vehicle; definition

- A. An immobilizing or impounding agency shall release a vehicle to the owner before the end of the thirty day immobilization or impoundment period under any of the following circumstances:
 - 1. If the vehicle is a stolen vehicle.
 - 2. If the vehicle is subject to bailment and is driven by an employee of a business establishment, including a parking service or repair garage, who is subject to section 28-3511, subsection A or B or C.
 - 3. If the owner presents proof satisfactory to the immobilizing or impounding agency that the owner's driving privilege has been reinstated.
 - 4. All of the following apply:
 - (a) The owner or the owner's agent was not the person driving the vehicle pursuant to section 28-3511, subsection A.
 - (b) The owner or the owner's agent is in the business of renting motor vehicles without drivers.
 - (c) The vehicle is registered pursuant to section 28-2166.
 - 5. For the spouse of the owner or any person who is identified as an owner of the vehicle on the records of the department, if the spouse or person was not the driver of the vehicle at the time of removal and either immobilization or impoundment and the spouse or person enters into an agreement with the immobilizing or impounding agency that stipulates that if the spouse or person allows an unlicensed driver or a driver arrested in violation of section 4-244, paragraph 33 or section 28-1382 or 28-1383 to drive the spouse's or person's vehicle within one year after the agreement is signed, the spouse or person will not be eligible to obtain release of the spouse's or person's vehicle before the end of the thirty day immobilization or impoundment period.
- B. A vehicle shall not be released pursuant to subsection A of this section except on order of a justice court, immobilizing agency or impounding agency pursuant to an immobilization or a poststorage hearing under section 28-3514 or on presentation of the owner's or owner's spouse's currently valid driver license to operate the vehicle and proof of current vehicle registration and, if the driving privilege of the person driving the vehicle was suspended due to a previous conviction for driving under the influence pursuant to section 28-1381, subsection K, paragraph 4, section 28-1382 or section 28-1383 and a certified ignition interlock device was required to be installed on the vehicle, on presentation of proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge a fee for providing access to the vehicle or for the installation of the certified ignition interlock device.
- C. The owner is responsible for paying all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513, unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the

- operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.
- D. The immobilizing or impounding agency shall release a vehicle to a person, other than the owner, identified on the department's record as having an interest in the vehicle before the end of the thirty day immobilization or impoundment period if all of the following conditions are met:
1. The person is a motor vehicle dealer, bank, credit union or acceptance corporation or any other licensed financial institution legally operating in this state or is another person who is not the owner and who holds a security interest in the vehicle.
 2. The person pays all immobilization, towing and storage fees related to the immobilization or impoundment of the vehicle unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.
 3. The person presents foreclosure documents or an affidavit of repossession of the vehicle.
- E. Before a person described in subsection D of this section releases the vehicle, the person may require the owner to pay charges that the person incurred in connection with obtaining custody of the vehicle, including all immobilization, towing and storage charges that are related to the immobilization or impoundment of the vehicle and any administrative charges that are established pursuant to section 28-3513.
- F. A vehicle shall not be released after the end of the thirty day immobilization or impoundment period except on presentation of the owner's or owner's agent's currently valid driver license to operate the vehicle and proof of current vehicle registration and, if the driving privilege of the person driving the vehicle was suspended due to a previous conviction for driving under the influence pursuant to section 28-1381, subsection K, paragraph 4, section 28-1382 or section 28-1383 and a certified ignition interlock device was required to be installed on the vehicle, on presentation of proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge a fee for providing access to the vehicle or for the installation of the certified ignition interlock device.
- G. The storage charges relating to the impoundment of a vehicle pursuant to this section shall either:
1. Be subject to a contractual agreement between the impounding agency and a towing firm for storage services pursuant to section 28-1108.
 2. Not exceed fifteen dollars for each day of storage.
- H. The immobilizing or impounding agency shall have no lien or possessory interest in a stolen vehicle if the theft was reported to the appropriate law enforcement agency. The immobilizing or impounding agency shall release the vehicle to the owner or person other than the owner as identified in subsection D of this section even if the operator at the time of immobilization or impoundment has not paid all immobilization, towing, storage and administrative fees.
- I. For the purposes of this section, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

[\(back to top\)](#)

28-3513. Administrative charges

- A. The immobilizing or impounding agency shall establish procedures for immobilization hearings or poststorage hearings, for the release of properly immobilized or impounded vehicles and for imposition of a charge equal to the administrative costs relating to the removal, immobilization, impoundment, storage or release of a vehicle. The immobilizing or impounding agency may waive the administrative charges.
- B. The administrative charges established pursuant to this section shall not exceed one hundred fifty dollars.
- C. The immobilizing or impounding agency shall collect any administrative charges at the time of the release of the vehicle unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all towing, immobilization, storage and administrative charges.
- D. The administrative charges established pursuant to this section are in addition to any other immobilization, impoundment or storage charges.
- E. A justice court providing an immobilization or poststorage hearing may collect a fee equal to the fee established pursuant to section 22-281 for a small claims answer.

[\(back to top\)](#)

28-3514. Hearings; notice of immobilization or storage

- A. If a peace officer removes and either immobilizes or impounds a vehicle pursuant to section 28-3511, the immobilizing or impounding agency may provide the owner, the spouse of the owner and any other person identified on the department's record as having an interest in the vehicle with the opportunity for an immobilization or poststorage hearing to determine the validity of the immobilization or storage or consider any mitigating circumstances relating to the immobilization or storage or release of the vehicle before the end of the thirty day immobilization or impoundment period. If the immobilizing or impounding agency provides the opportunity for an immobilization or poststorage hearing, the immobilizing or impounding agency shall conduct the hearing in accordance with any of the following:
1. In the immobilizing or impounding agency's jurisdiction.
 2. Telephonically.
 3. Pursuant to procedures prescribed by the immobilizing or impounding agency to transfer the authority to conduct the immobilization or poststorage hearing to a law enforcement agency in the jurisdiction in which the owner, the spouse of the owner, the owner's agent or any person identified in the department's record as having an interest in the vehicle resides.
- B. If the immobilizing or impounding agency does not provide an opportunity for an immobilization or poststorage hearing, a justice court shall conduct the immobilization or poststorage hearing. If an immobilization or poststorage hearing is conducted by a justice court, the immobilizing or impounding agency shall appear and show evidence. Immobilization or poststorage hearings conducted by a justice court shall be considered as civil filings for the purposes of judicial productivity credits.
- C. Within two working days after immobilization or impoundment, the immobilizing or impounding agency shall send a notice of storage by first class mail to each person, other than the owner, identified on the department's record as having an interest in the vehicle. Service of notice of immobilization or storage is complete on mailing. If the immobilizing or impounding agency fails to notify a person, other than the owner, identified on the department's record as having an interest in the vehicle within two working days after immobilization or impoundment, the immobilizing agency or the person in possession of the vehicle shall not charge more than fifteen days' immobilization or impoundment when the person redeems the impounded vehicle or has the immobilization device removed from the vehicle.
- D. Within two working days after immobilization or impoundment, the immobilizing or impounding agency shall mail or personally deliver notice of immobilization or storage to the owner of the vehicle.
- E. The notice of immobilization or storage shall include all of the following information:
1. A statement that the vehicle was immobilized or impounded.
 2. The name, address and telephone number of the immobilizing or impounding agency providing the notice.
 3. The name, address and telephone number of the immobilizing or impounding agency or justice court that will provide the immobilization or poststorage hearing.
 4. The location of the place of storage and a description of the vehicle, including, if available, the manufacturer, model, license plate number and mileage of the vehicle.
 5. A statement that in order to receive an immobilization or poststorage hearing the owner, the spouse of the owner, the owner's agent or the person identified in the department's record as having an interest in the vehicle, within ten days after the date on the notice, shall request an immobilization or poststorage hearing by contacting the immobilizing or impounding agency in person or in writing or by filing a request with the justice court and paying a fee equal to the fee established pursuant to section 22-281 for a small claims answer.
 6. A statement that if the immobilizing or impounding agency does not provide the opportunity for an immobilization or poststorage hearing, the owner, the spouse of the owner, the owner's agent or any person identified in the department's record as having an interest in the vehicle may request that the immobilization or poststorage hearing be conducted by a justice court in the immobilizing or impounding agency's jurisdiction or the jurisdiction in which the owner, the spouse of the owner, the owner's agent or the person identified in the department's record as having an interest in the vehicle resides.
- F. The immobilization or poststorage hearing shall be conducted by the immobilizing or impounding agency or justice court within five working days after receipt of the request.
- G. Failure of the owner, the spouse of the owner or other person or the other person's agent to request or to attend a scheduled hearing satisfies the immobilization or poststorage hearing requirement.
- H. The immobilizing or impounding agency employing the person who directed the immobilization or storage is responsible for the costs incurred for immobilization, towing and storage if it is determined in the immobilization or poststorage hearing that reasonable grounds for the immobilization or impoundment and storage are not established.

[\(back to top\)](#)

28-3515. Unclaimed vehicles

If a claim has not been made for the return or possession of the vehicle by a person legally entitled to the vehicle within thirty days after a vehicle is impounded pursuant to this article, the person who has possession of the vehicle shall submit an abandoned vehicle report as provided in section 28-4838.

[\(back to top\)](#)

RELATED AND REVISED AUGUST 2005

28-872. Removal of vehicles; notice; liability for costs; hearing

- A. If a police officer finds a vehicle standing on a highway in violation of section 28-871 the officer may move the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the paved or main traveled part of the highway.
- B. A police officer may remove or cause to be removed to a place of safety an unattended vehicle that is illegally left standing on a highway, bridge or causeway or in a tunnel in a position or under circumstances that obstruct the normal movement of traffic.
- C. A police officer may remove or cause the removal of a vehicle to the nearest garage or other place of safety as follows:
 - 1. If a report has been made that the vehicle has been stolen or taken without the consent of its owner.
 - 2. If the person or persons in charge of the vehicle are unable to provide for its custody or removal.
 - 3. If the person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.
 - 4. If the vehicle is left unattended for more than four hours on the right-of-way of a freeway that has full control of access and no crossings at grade.
 - 5. Within the boundaries of a city, if the vehicle is left unattended for more than two hours on the right-of-way of a freeway that has full control of access and no crossings at grade.
- D. If a police officer removes or causes the removal of a vehicle pursuant to this section, the police officer shall do one of the following when the vehicle is removed:
 - 1. Provide to the tow truck operator a form that the police officer signs and that includes the following information:
 - (a) The vehicle identification number.
 - (b) A number identifying the law enforcement agency and the officer ordering the tow.
 - (c) The year, make and model of the vehicle.
 - (d) The license plate number if available.
 - (e) The date and time the vehicle was towed.
 - (f) The address from which the vehicle was towed.
 - (g) The name, address and telephone number, if the telephone number is known, of the registered owner and the primary lien holder of the vehicle to permit the towing company to notify the registered owner or the primary lien holder.
 - 2. Electronically communicate to the officer's law enforcement agency both of the following and provide to the towing company that towed the vehicle the name, address and telephone number, if the telephone number is known, of the registered owner and the primary lien holder of the vehicle:
 - (a) The name and telephone number of the person towing the vehicle.
 - (b) The information prescribed by paragraph 1 of this subsection.
- E. If a police officer provides the tow truck operator with the form described in subsection D, paragraph 1 of this section, the tow truck operator must provide the form to the person responsible for filing the abandoned vehicle report pursuant to section 28-4838. The person responsible for filing the abandoned vehicle report shall submit the form to the department of transportation at the time the person files the abandoned vehicle report.
- F. The law enforcement agency receiving electronic information pursuant to subsection D of this section shall record the information as prescribed by the department of public safety. The department of public safety shall make the information available to the department of transportation.
- G. When the department of transportation receives the information from either the department of public safety or the person responsible for filing the abandoned vehicle report pursuant to section 28-4838, the department of transportation shall send notice by first class mail to all persons listed on the department of transportation's records as having an ownership interest in the vehicle. The notice shall include the vehicle identification number and the name and telephone number of the person that towed the vehicle. The director of the department of transportation may include additional information on the notice as the director deems necessary.
- H. Except as provided in subsection I of this section:

1. The public agency employing an officer who removes or causes the removal of a vehicle under this section is not liable for the cost of towing or storing the vehicle if the officer acts under color of the officer's lawful authority.
 2. Before release of the vehicle by the towing service, the owner or the owner's agent of a vehicle that is removed or caused to be removed under this article shall pay or make satisfactory arrangements to pay for any reasonable towing and storage costs incurred in towing or storing the vehicle.
- I. If a tow truck operator is required in writing by a public agency to tow or store a vehicle that is required as evidence in a criminal action or for future criminal investigation by the public agency, the public agency is liable for the towing and storage costs of the vehicle.
 - J. If a police officer removes or causes the removal of a vehicle as permitted by this section, the public agency employing the officer shall provide the registered owner of the vehicle or the registered owner's agent with the opportunity for a poststorage hearing to determine the validity of the removal. This hearing shall be conducted within forty-eight hours after a request, excluding weekends and holidays. The public agency employing the officer may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who removed or caused the removal of the vehicle. The public agency employing the officer who removes or causes the removal of the vehicle is responsible for the costs incurred for towing and storage if it is determined at the hearing that probable cause for the removal cannot be established.

[\(back to top\)](#)